

REMARKS

Claims 1-20 are pending in the application.

Claims 1-20 have been rejected.

Claims 1, 2, 9 and 17 have been amended.

Applicants acknowledge the Examiner's Advisory Action dated June 1, 2005.

Although the amendments presented in Applicants' response to the Final Office Action were not entered, Applicants thank the Examiner for the indication that the amendments overcome the 35 U.S.C. § 112 para. 2 rejections in the Final Office Action. Those amendments presented in the response to the Final Office Action are incorporated herein, as is, for the sake of completeness, the previously presented discussion related to the 35 U.S.C. § 112 rejections.

Rejection of Claims under 35 U.S.C. § 112

Claims 1 and 3-8 stand rejected under 35 U.S.C. § 112, second paragraph, as being incomplete for omitting essential elements, such omission amounting to a gap between the elements. The Office Action further states that the omitted elements are "the connection between the user and the NVT server." *See* Office Action p. 2.

The Office Action states that Claims 1 and 3-8 stand rejected because "it is not clear which elements of the NVT apparatus that enable the user to create the at least one task." The Office Action expounds upon this rejection by stating that "[t]he relationship between the user and the 'element' that enable the user must be specified, since it is necessary to make the claim more definite."

While not conceding the position of the Office Action with regard to the relationship between the NVT apparatus and the user, but instead to expedite prosecution, Applicants have chosen to overcome the Examiner's rejection by an amendment that provides additional description of the relationship between a user and the NVT apparatus. Claim 1, therefore, now reads, in part, "an NVT server coupled to the at least one probe network device, wherein the NVT server allows a user to create at least one task...." Applicants respectfully submit that through this amendment the relationship between the user and the NVT apparatus is now clear.

Applicants have further amended dependent Claim 2 to provide an additional relationship between the user and the NVT apparatus through an NVT client.

For at least the above reasons, Applicants respectfully submit that Claim 1, as amended, and all remaining claims dependent therefrom (Claims 2-8) are in condition for allowance and respectfully request indication of allowability.

Rejection of Claims under 35 U.S.C. § 102

Claims 1, 4, 9-11, and 17-20 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U. S. Patent No. 5,854,889 issued by Liese et al ("Liese"). Applicants respectfully traverse this rejection.

Independent Claim 1: Applicants respectfully submit that Liese does not disclose each limitation of independent Claim 1, as amended, and therefore Liese cannot anticipate that claim or any claims that depend therefrom. In the below discussion, Applicants further respond to the positions expressed in the Office Action.

As stated above, Claim 1 has been amended to further clarify that “the NVT server allows a user to create at least one task....” Applicants respectfully submit that Liese provides no disclosure of such a claim limitation. The Office Action makes no reference to any section of Liese that indicates a user interaction with a NVT server as claimed. The Office Action only cites to sections of Liese wherein the user interacts with a client machine and not an NVT server. *See, e.g.*, Office Action, pp. 3-4. Applicants further submit that Liese provides no disclosure of an NVT server allowing a user to enter parameters into a template for each of the at least one task as claimed.

In addition, the Office Action admits that Liese does not provide a disclosure of this limitation of Claim 1 by stating, “the ability of Liese client machine being enabled for a user for managing the test cases using a GUI... reads on the claimed NVT apparatus....” *See* Office Action, p. 15. Without such disclosure in Liese, that reference cannot be said to anticipate Claim 1 or any claims dependent therefrom (Claims 2-8).

Finally, Applicants respectfully submit that Applicants did not intend to suggest that Claim 1 related to “selecting, managing, and maintaining test cases,” as mentioned in the Office Action. That language was suggested by the citation to Liese used in the previous Office Action in which it is clearly stated that Liese’s client machines and not the server machines are responsible for tasks related to selecting, managing, and maintaining test cases.

Applicants therefore respectfully request Examiner’s reconsideration of the rejection and an indication of the allowability of these claims.

Independent Claim 9: Claim 9 includes a limitation of “converting the at least one task for transmission to the at least one probe network device.” The Final Office Action states that this limitation is disclosed by Liese’s presentation of “the execution server conveys

protocols for successful completion of test request to custom servers that performs the requested tests.” Final Office Action, pp. 4-5. Applicants have previously discussed that conveying completion of a test request is not converting a test case for transmission as claimed. *See* Oct. 14, 2004 Response, p. 4. Applicants have also respectfully submitted that positions taken by the Final Office Action are inconsistent with positions taken in the previous Office Action and are not supported by the disclosure previously cited. *See* May 3, 2005 Response, pp. 9-10.

While not conceding the position of the Final Office Action with regard to whether conveying completion of a test request is a disclosure of the claimed converting a test case, but instead to expedite prosecution, Applicants have chosen to overcome the rejection by an amendment that provides clarification of the nature of the conversion performed (e.g., “converting the at least one task into instructions executable by the at least one probe network device”). Such amendment is not intended to prejudice any future argument that Liese is not prior art to any invention herein presented. Applicants respectfully submit that such amendment finds support in the specification as filed, and further submit that Liese provides no disclosure of such a conversion into executable instructions.

Applicants further bring to the Examiner’s attention that independent Claim 17 has been similarly amended to advance prosecution.

For at least these reasons, Applicants therefore respectfully submit that Claims 9 and 17 are in condition for allowance and respectfully request Examiner’s reconsideration of the rejection and an indication of the allowability of Claims 9 and 17 and all claims dependent therefrom.

Independent Claim 19: Applicants respectfully submit that Liese does not disclose each limitation of independent Claim 19, and therefore Liese cannot anticipate that claim or any claims that depend therefrom.

Claim 19 of the present invention recites limitations of:

translating the tasks to task code;
transmitting the task code to probe network devices.

The Office Action suggests that “Examiner interpreted the transmission from the client to the custom server as being the translating the task to task code for transmission.” *See* Office Action, p. 16. As further support for this rejection the Office Action cites to Liese 3:29-47; 4:19-23. *See* Office Action, p. 7. Applicants respectfully submit that the cited sections of Liese do not disclose the above claim limitations, and that the Office Action improperly merges two claim limitations thereby not giving the claim limitation of “translating” its effect, as required.

Claim 19 is directed toward “computer instructions implemented on an NVT server.”

The cited disclosure in Liese is performed on a client machine and not an NVT server as claimed. *See* Liese 3:29-47 (“the client machine includes a GUI (graphical user interface) for performing tests on a variety of equipment using a variety of test cases....The client machine has access to file servers containing test cases and database servers for access to test cases. The client machine manages its own set of generic test cases locally or through its own file servers.”). Therefore, the cited disclosure cannot be said to anticipate computer instructions implemented on an NVT server. Further, the cited section of Liese provides no disclosure for translating or transmitting as claimed. *See also* Liese 4:19-23 (“The execution server is the supervisory server for performing all requested test cases in the lab environment. Thus, the execution server conveys protocol for successful completion of test requests to custom

servers which ultimately perform the requested test cases.”). Applicants therefore respectfully submit that the Office Action fails to provide support for the proposition that Liese anticipates the limitation of “translating” in Claim 19.

For at least these reasons, Applicants therefore respectfully submit that Claim 19 is in condition for allowance and respectfully request Examiner’s reconsideration of the rejection and an indication of the allowability of Claim 19 and all claims dependent therefrom.

For at least the above reasons, Applicants respectfully submit that Claims 1, 9, 17 and 19, and all remaining claims dependent therefrom are in condition for allowance and request Examiner’s indication of same.

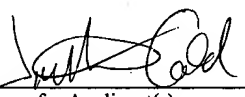
Rejection of Claims under 35 U.S.C. § 103

The Office Action indicates that Claims 2-8 are rejected under 35 U.S.C. § 103(a) in light of Liese in combination with several other references. For the reasons described above, Applicants respectfully submit that Liese does not disclose all the limitations of Claim 1, as amended, and upon which all the listed claims depend. Applicants further respectfully submit that the Office Action presents no discussion indicating that the references taken in combination with Liese provide the missing disclosure discussed above. Since the combined references do not disclose every limitation of the claims, Applicants respectfully submit that these claims are in condition for allowance and Applicants request Examiner’s reconsideration of the rejection and indication of allowability.

CONCLUSION

The application is believed to be in condition for allowance, and a notice to that effect is solicited. Nonetheless, should any issues remain that might be subject to resolution through a telephonic interview, the Examiner is invited to telephone the undersigned.

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Mail Stop RCE, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450, on June 17, 2005.

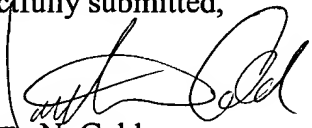


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Date of Signature

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